

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Marsot

Application No.: 10/574,242

Filed: 02/09/2009

For: Measurement and apparatus for improved sample capture device

Group Art Unit: 3736

Examiner: Szmal, Brian Scott

Conf. No. 5504

**TERMINAL DISCLAIMER TO OBLIVIATE A PROVISIONAL DOUBLE PATENTING REJECTION**  
**OVER A PENDING SECOND APPLICATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Pelikan Technologies, Inc., the owner of 100% interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer filed prior to the grant of any patent granted on commonly owned pending second Application No. 10/613,517 filed on 12/9/2010. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

The following evidentiary documents establish a chain of title from the original owner to the Assignee: the Assignment recorded on 3/2/2010 at reel 024016, frame 0492. Pursuant to 37 C.F.R. § 3.73(b) the undersigned hereby states that evidentiary documents have been reviewed and hereby certifies that, to the best of his knowledge and belief, title is in the identified Assignee.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed prior to its grant.

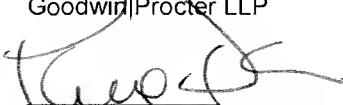
Check either box 1 or 2 below, if appropriate.

1.  For submission on behalf of any organization (e.g., corporation, partnership, university, government agent, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2.  The undersigned is an attorney of record.

Respectfully submitted,  
Goodwin|Procter LLP

  
Paul Davis, Reg. No. 29,294

Date: 12-15-10

135 Commonwealth Drive  
Menlo Park, CA 94025  
(650) 752-3129

Charge Deposit Account No. 50-4634 for the fee of \$70.00 for a small entity..  
 Charge Deposit Account 50-4634 for any deficiency.

>\*Certification under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee.<